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OFFICE OF THE SANGGUNANG PANLALAWIGAN SECRETARY

CERTIFICATION

TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY that at the regular session duly constituted of the Sangguniang Panlalawigan, Province of Pangasinan, held on February 28, 2022 at Lingayen, Pangasinan, the following provincial resolution was approved:

Authored by SP Member Noel C. Bince

PROVINCIAL RESOLUTION NO. 325-2022

APPROVING AND ADOPTING AS ITS DECISION EN BANC, THE DECISION OF THE COMMITTEE ON GOOD GOVERNMENT AND ACCOUNTABILITY OF PUBLIC OFFICERS, JUSTICE AND HUMAN RIGHTS IN SP ADMINISTRATIVE CASE NO. 03-2019

WHEREAS, the Sangguniang Panlalawigan is in receipt of a verified administrative complaint filed on October 21, 2019 by Brgy. Capt. Zenaida Camacho against Mayor Cezar T. Quiambao, Vice Mayor Raul R. Sabangan and the Sangguniang Bayan of Bayambang, Pangasinan, for Conduct Unbecoming, Grave Abuse of Authority, Conduct Prejudicial to the Best Interest of Service and which was referred to the Committee on Good Government and Accountability of Public Officers, Justice and Human Rights as SP Administrative Case No. 03-2019;

WHEREAS, the Committee on Good Government and Accountability of Public Officers, Justice and Human Rights, on February 28, 2022 submitted its Decision embodied in *Committee Report No. 13-2022*, to wit:

DECISION

Complainant Brgy. Captain ZENaida B. CAMACHO filed this instant Administrative Complaint against the herein Respondents following the dismissal of the administrative complaint filed against her on appeal docketed under SP Administrative Case Number 02-2018.

ANTECEDENTS

On April 26, 2017, Jacinto T. Perez and Lito M. Balmoja filed a Complaint against Punong Brgy. Zenaida B. Camacho and Kgd. Alex Barrogo of Brgy. Buayaen, Bayambang before the Office of the Ombudsman.



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The Complaint alleged that Camacho and Barrogo uttered defamatory remarks against the Perez and Balmoja during the conduct of a data capturing activity held for the purpose of the issuance of Community Service Cards in Brgy. Buayaen, Bayambang. Camacho took the microphone and uttered the following remarks in Pangasinan:

"Sikayon empleyado ed munisipyo babastos; natan Labat ya agew, agkila dya onpapawil, isumpal yo Labat iyan agew, impaliber kon walay nagawan onya dya pero sikayo balet agkayo labat nanpatanir, linmoob kayod balwartek, dya labat so abong ko agkayo labat nanpatanir"

On September 4, 2017, the Office of the Ombudsman referred the case to the Sangguniang Bayan of Bayambang.

Summons was issued for Camacho and Barrogo. They filed their Answer to the Sangguniang Bayan.

On November 20, 2017, the Sangguniang Bayan issued Resolution 3204 recommending a preventive suspension of Camacho for sixty (60) days.

On November 24, 2017, Mayor Quiambao issued Executive Order 042 implementing the recommendation of the Sangguniang Bayan for a 60-day preventive suspension for Camacho.

On November 28, 2017, the Sangguniang Bayan scheduled a Preliminary Conference. Camacho wanted to cross-examine the witnesses. There was a stalemate after the complainants wanted to just submit their Position Paper.

The Sangguniang Bayan resolved the impasse and required the parties to submit their respective Position Papers. Both complied.

The Sangguniang Bayan of Bayambang rendered a Decision finding Camacho guilty and suspended her for four months.

Camacho appealed the Decision before the Sangguniang Panlalawigan which set aside the decision and ruled in her favor.

Provincial Resolution No. 9-2019 dated January 11, 2019, entitled Approving and Adopting as its Decision En Banc, the recommendation of the Committee on Good Government and Accountability of Public Officers in SP Administrative Case No. 02-2018, provides thus:



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WHEREFORE, based on the foregoing, the Decision of the Sanggunian Bayan of Bayambang finding the respondent-appellant Zenaida Camacho, administratively liable for one (1) count of Grave Misconduct and one (1) count of Prejudicial to the Best Interest of Justice, Punong Baranggay Camacho is hereby suspended from assuming the duties of her office for a total period of four (4) months is SET ASIDE by the Sangguniang Panlalawigan.

SO ORDERED.

ISSUES

With her Complaint, the Sangguniang Panlalawigan needs to resolve the following issues raised by Complainant Camacho.

- A. Whether the issuance of a preventive suspension against Brgy. Captain Camacho is proper;*
- B. Whether the Complainant was deprived of her right to cross-examine the witnesses against her;*
- C. Whether the Sanggunian Bayan of Bayambang rendered an obviously unfair decision, tainted with political partisan considerations, convicting the respondent (now complainant) for grave misconduct and conduct prejudicial to the best interest of the service despite lack of legal and factual bases.*

DISCUSSION

As provided, Provincial Resolution No. 9-2019 ruled in favor of then appellant Camacho because:

In the present case, (referring to SP Administrative Case No. 02-2019) the first requirement stated above was not complied with notwithstanding respondent-appellant's plea. When the Sangguniang Bayan explicitly provides in its Rules that "respondent shall be accorded full opportunity to appear and to defend himself in person or by counsel, to confront and cross-examine the witnesses against him, and to require the attendance of witnesses", it cannot, by way of convenience, relax such rule, especially when the respondent strongly opts to claim the same.

A decision rendered without fully satisfying the essence of due process as established in the Constitution is flawed, being procedurally infirm, hence cannot stand and need to be voided.



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This development may have led Camacho to initiate an administrative proceeding against the Respondents. The decision rendered by the Sangguniang Bayan suspending her from assuming duties was set aside primarily because she was denied due process when she was deprived of her right to cross-examine witnesses against her.

The Sangguniang Panlalawigan has therefore since absolved Camacho in the complaint filed against her when the decision of the Sangguniang Bayan of Bayambang was overturned on appeal. Clearly, by her absolution, it is evident that she should not have been preventively suspended, she should not have been deprived of her right to cross-examine witnesses testifying against her.

The third issue raised by Camacho however is more complex. She alleged that the Sangguniang Bayan of Bayambang rendered an obviously unfair decision, tainted with political partisan considerations, convicting the respondent (now complainant) for grave misconduct and conduct prejudicial to the best interest of the service despite lack of legal and factual bases.

The Complainant attempted to prove political partisan consideration in the rendering of the Decision by the Sangguniang Bayan of Bayambang (in Administrative Case No. 02-2017) by presenting the following:

- 1. On April 20, 2015, Cesar T. Quiambao accused then incumbent Municipal Mayor Ricardo M. Camacho, husband of Zenaida B. Camacho, several criminal acts including violations of Section 3 (e) of the Anti-Graft and Corrupt Practices Act, Section 7 (A) of RA 6713 Fraud Against the Treasury under Article 213 and Falsification of Public Officer under Article 171 of the Revised Penal Code, before the Office of the Ombudsman for Luzon;*
- 2. A case for Plunder and Violations of Sections 3 (e) and (g) of RA 3019 was also filed against Cesar T. Quiambao, initiated by complainants Ricardo Camacho, Willy L. Chua and Geraldine Ubana- Baniqued;*
- 3. Two other complaints were filed by Crisostomo Bato and Angelito De Vera against Mayor Cesar Quiambao in the Office of the Ombudsman relating to violations of Republic Act No. 3019 and their corresponding administrative cases;*
- 4. During the 2016 Mayoralty elections, Zenaida Camacho ran against Cesar T. Quiambao. The respondent Vice Mayor Raul Sabangan and the rest of the respondent-councilors, ran under the ticket of Mayor Cesar T. Quiambao;*



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- 5. During the 2016 campaign period, Mayor Cezar Quiambao hurled allegations against Ricardo Camacho and Zenaida Camacho showing his disdain against them, as witnessed by the witness for the complainant Angelito De Vera. In fact, the spouses were allegedly tagged as the masterminds behind the complaints filed by Crisostomo Bato and Angelito De Vera with the Office of the Ombudsman;*
- 6. In time, respondents Cezar T. Quiambao, Raul S. Sabangan, Joseph Vincent E. Ramos, Philip U. Domalanta, Francisco S. De Vera, Martin E. Terrado, and Amory M. Junio garnered the highest votes and were respectively declared Mayor, Vice-Mayor and Councilors- elect in the Municipality of Bayambang, Pangasinan;*
- 7. Sometime on April of 2017, Jacinto T. Perez and Lito Balmoja, employees of the local government unit of Bayambang, headed by Municipal Mayor Cezar Quiambao, lodged (1) a criminal and an administrative case against herein Punong Barangay Zenaida B. Camacho, both of which arose from the same narration of facts;*
- 8. The criminal case filed against the respondent for simple slander, a light offense, was dismissed for lack of probable cause as per Resolution of the Office of the Provincial Prosecutor in San Carlos City, Pangasinan dated May 3, 2017. A motion for reconsideration of the said resolution was likewise denied for utter lack of merit as per Resolution on June 19, 2017. A petition for review was filed, but the dismissal of the said criminal case against the respondents was affirmed by the Office of the Regional Prosecutor's Office, Region I, San Fernando City, La Union as per Resolution dated 11 August 2017;*
- 9. While the criminal complaint was dismissed, the Office of the Ombudsman, where Jacinto Perez and Lito Balmoja earlier filed the administrative case for Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service, referred the administrative matter to the Office of the Sangguniang Bayan of Bayambang, headed by the respondent, Municipal Vice Mayor Raul Sabangan;*
- 10. Punong Barangay Zenaida Camacho was ordered to submit her Answer to the administrative complaint, which she promptly forwarded to the Sangguniang Bayan of Bayambang on November 3, 2017, vehemently denying the charges. In her Answer were the Resolutions dismissing the criminal case. In those resolutions, it is clear that the complainant Zenaida B. Camacho did not necessarily admit having said the same remarks - but merely argued the legal infirmity of the defamation suit;*



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11. *Despite the dismissal of the criminal charge against Zenaida Camacho, on the 24th of November 2017, Mayor Cezar Quiambao issued Executive Order No. 042, Series of 2017, implementing the resolution of the Sangguniang Bayan of Bayambang to preventively suspend Punong Barangay Zenaida B. Camacho for a period of sixty (60) days;*
12. *During the preliminary conference of the administrative case, the respondent Sangguniang Bayan members voted down the motion of Punong Barangay Zenaida B. Camacho to confront her witnesses through a formal investigation. Despite the impassioned appeal for reconsideration, the Sangguniang Bayan again DENIED the same and insisted that the parties merely submit position papers;*
13. *Raising the denial of a formal investigation and the right to cross-examine witnesses as an issue, Punong Barangay Zenaida B. Camacho submitted her Position Paper for the consideration of the Sangguniang Bayan;*
14. *On February 12, 2018, the Sangguniang Bayan of Bayambang rendered a decision finding Punong Barangay Zenaida B. Camacho administratively liable for one (1) count of Grave Misconduct and one (1) count of Conduct Prejudicial to the Best Interest of the Service, suspending her for a total period of four (4) months as penalty, signed by the respondents;*
15. *Zenaida Camacho appealed this resolution to the Sangguniang Panlalawigan of Pangasinan. The Committee on Good Government and Accountability of Public Officers recommended that the resolution be set aside for failure of the Sangguniang Bayan to afford Zenaida Camacho the right to cross-examine witnesses against her.*

The Sangguniang Panlalawigan therefore needs to resolve this question:

Was there extraneous evidence of malice to ram down the outcome of liability for Camacho other than mere insinuations of bias or vendetta from the respondents? This is important in order to determine the liability of the respondents. Absent these, good faith is presumed.

The aforementioned allegations by the complainant do not show direct evidence that the respondents acted in bad faith. It is not what one believes. It is what one can prove.

The complainant has not presented sufficient proof to show that there was a conspiracy of malice to suspend Camacho from office.



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There was a time when an acquittal was not deemed final and a mistrial was pronounced by the Supreme Court because of evidence that the person who would most be benefited with an acquittal showed an uncanny interest in the outcome of the case.

The Supreme Court thus held:

Respondents Justices of the Sandiganbayan First Division in their collective comment of April 9, 1986 stated that the trial of the criminal cases by them was valid and regular and decided on the basis of evidence presented and the law applicable, but manifested that "if it is true that the former Tanodbayan and the Deputy Tanodbayan, Chief of the Prosecution Panel, were pressured into suppressing vital evidence which would probably alter the result of the trial, Answering Respondents would not interpose any objection to the reopening of those cases, if only to allow justice to take its course." Respondent Sandiganbayan Justice Bienvenido C. Vera Cruz, in a separate comment, asserted that he passed no note to anyone; the note being bandied about is not in his handwriting; he had nothing to do with the writing of the note or of any note of any kind intended for any lawyer of the defense or even of the prosecution; and requested for an investigation by this Court to settle the note passing issue once and for all.

Deputy Tanod bayan Manuel Herrera, in his comment of April 14, 1986 affirmed the allegations in the second motion for reconsideration that he revealed that the Sandiganbayan Justices and Tanodbayan prosecutors were ordered by Marcos to whitewash the Aquino-Galman murder case.

If these circumstances mentioned happened in this case, the outcome of the case at bench would have been different. But there was no evidence of Mayor Quiambao personally ordering the members of the Sangguniang Bayan to reach for a guilty verdict. Neither was the respondent Vice Mayor telegraphing the outcome of the vote. The vice mayor cannot be faulted for not participating in the resolution of the case as his vote would only matter if there was a tie.

While Camacho may have argued that there was no probable cause on the criminal case filed against her, the quantum of evidence set in criminal law is different in administrative law. The members of the Sangguniang Bayan of Bayambang cannot be straitjacketed in resolving the case similar to the Department of Justice as they can find then respondent Camacho liable via substantial evidence.

Finding Camacho's liability, Mayor Quiambao does not have the luxury of overturning the factual findings of the respondent Sangguniang Bayan members in both the issuance of her preventive suspension of sixty days and thereafter suspending her from office for four months. His job is ministerial.



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The following is an excerpt of a Department of Interior and Local Government (DILG) Opinion No. 23 s. 2011 penned by Atty. Jesus B. Doque IV, Director III addressed to then Municipal Mayor Sadeka Tomaneng of Tubay, Agusan Del Norte which would shed light on this issue.

The foregoing having been considered, the Legal Opinion dated 11 May 2011 signed by Atty. de los Santos was focused on the sole issue of whether or not a Municipal Mayor has the power to determine the conditions upon which preventive suspension may be imposed under Section 63 (b) of the Local Government Code of 1991 (LGC), and correspondingly impose such preventive suspension on the basis of his or her own findings. Said query was answered in the negative in that legal opinion. Xxx

At this instant, since it is apparent that Resolution No. 2011-01 recommending the preventive suspension of Hon. Page had already been issued by the Sanggunian Bayan of Tubay as 23 February 2011, then it is the duty of your office to implement the said recommendation notwithstanding the Legal Opinion made by Atty. de los Santos. Let it be noted that based on DILG Legal Opinion No. 44, s. 2004, after the sanggunian shall have determined the necessity to warrant the imposition of preventive suspension, it becomes the ministerial duty of the local chief executive to cause the implementation thereof.

Camacho in fact was given the opportunity to appeal her case. She was vindicated after the Sanggunian Panlalawigan reversed the decision of the Sanggunian Bayan. The reversal is by itself also a moral victory. She was able to prove that she was not at all liable for the administrative charges filed against her. The apparent mistake made by the Respondents, as their collective decision and action were reversed, should not be taken against them. Otherwise, all judges whose decisions were reversed by a higher court would be deemed to be administratively liable.

Thus, the Supreme Court held that:

The Court declared that an administrative complaint is not the appropriate remedy for every act of a judge deemed aberrant or irregular where a judicial remedy exists and is available. The acts of a judge in his judicial capacity are not subject to disciplinary action. A judge cannot be civilly, criminally, or administratively liable for his official acts, no matter how erroneous, provided he acts in good faith.

The Court also expounded in Flores V. Abesamis that:

As everyone knows, the law provides ample judicial remedies against errors or irregularities being committed by a Trial Court in the exercise of its jurisdiction. The ordinary remedies against errors or irregularities which may be regarded as normal



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in nature (i.e., error in appreciation or admission of evidence, or in construction or application of procedural or substantive law or legal principle) include a motion for reconsideration (or after rendition of a judgment or final order, a motion for new trial), and appeal. The extraordinary remedies against error or irregularities which may be deemed extraordinary in character (i.e., whimsical, capricious, despotic exercise of power or neglect of duty, etc.) are inter alia the special civil action of certiorari, prohibition or mandamus, or a motion for inhibition, a petition for change of venue, as the case may be.

Now, the established doctrine and policy is that disciplinary proceedings and criminal actions against Judges are not complementary or suppletory of, nor a substitute for, these judicial remedies, whether ordinary or extraordinary. Resort to and exhaustion of these judicial remedies, as well as the entry of judgment in the corresponding action or proceeding, are pre-requisites for the taking of other measures against the persons of the judges concerned, whether of civil, administrative, or criminal nature. It is only after the available judicial remedies have been exhausted and the appellate tribunals have spoken with finality, that the door to an inquiry into his criminal, civil, or administrative liability may be said to have opened, or closed.

In a nutshell, there is no evidence of bad faith amongst the respondents in deciding the outcome of that administrative case. There is no evidence of unwarranted intervention by Mayor Quiambao in leading to the outcome according to his wishes. The respondents cannot be faulted for a decision they made that would later be reversed by the Sangguniang Panlalawigan.

*WHEREFORE, premises considered, the complaint is hereby **DISMISSED** because it is bereft of merit.*

SO ORDERED.

February 28, 2022. Lingayen, Pangasinan.

Respectfully Submitted:

*SP MEMBER NOEL C. BINCE
Chairman*

WHEREAS, the Sangguniang Panlalawigan finds the said Decision to be in order;

WHEREFORE, in view of the foregoing, on motion of SP Member Noel C. Bince, duly seconded, it was –

RESOLVED, by the Sangguniang Panlalawigan in session assembled to approve, as it is hereby approved and adopted as its Decision En Banc, the Decision of the Committee on Good Government and Accountability of Public Officers, Justice and Human Rights in Administrative Case No. 03-2019;



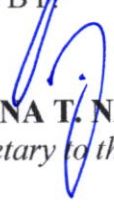
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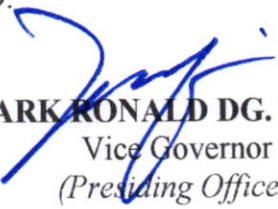
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RESOLVED, FURTHER, that copies of this resolution be furnished to Brgy. Capt. Zenaida Camacho, Mayor Cezar T. Quiambao, Vice Mayor Raul R. Sabangan and the Sangguniang Bayan of Bayambang, Pangasinan and counsels, for their information.

CERTIFIED BY:


VERNA T. NAVA-PEREZ
Secretary to the Sanggunian

ATTESTED:


MARK RONALD DG. LAMBINO
Vice Governor
(Presiding Officer)